

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES

v.

LEE DAVIS, JR.

**CRIMINAL ACTION NOS. 09-
343, 12-118**

CIVIL ACTION NO. 14-4681

ORDER

AND NOW, this 28 day of July, 2015, upon consideration of *pro se* defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence (Document No. 193, filed August 8, 2014); *pro se* defendant's Notice of Brief in Support of Motion of Writ of Habeas Corpus Issue Pursuant to § 2255 to Set Aside Conviction and Vacate Sentence (Document No. 199, filed November 24, 2014); Response of the United States to Defendant's Motion for Relief Pursuant to Section 2255 of Title 28; the Court noting that *pro se* defendant failed to file a Reply notwithstanding the Court's grant of additional time to do so,¹ for the reasons stated in the accompanying Memorandum dated July 28, 2015, **IT IS ORDERED** as follows:

1. *Pro se* defendant's Motion Under 28 U.S.C. § 2255 to Vacate, Set Aside, or Correct Sentence is **DISMISSED** and **DENIED**;
2. An evidentiary hearing **WILL NOT BE HELD** because "the motion and files and records of the case show conclusively that the movant is not entitled to relief." *United States v. Lilly*, 536 F.3d 190, 195 (3d Cir.2008) (citations omitted);
3. A certificate of appealability **WILL NOT ISSUE** on the ground that reasonable jurists would not debate whether *pro se* defendant has stated a valid claim of the denial of a

¹ By Order dated January 26, 2015, the Court granted *pro se* defendant's request for ninety (90) days by which to file and serve a reply to the Government's Response to the Motion Under 28 U.S.C. § 2255. By Order dated April 20, 2015, the Court granted *pro se* defendant's request for an additional sixty (60) days by which to file a reply to the Government's Response to the Motion Under 28 U.S.C. § 2255. The second extension of time expired on June 22, 2015.

constitutional right. *See Slack v. McDaniel*, 529 U.S. 473, 484 (2000); *Morris v. Horn*, 187 F.3d 333, 340 (3d Cir. 1999); 28 U.S.C. § 2253(c); and

4. The Clerk of Court shall **MARK** the case **CLOSED**.

BY THE COURT:

/s/ Hon. Jan E. DuBois

DuBOIS, JAN E., J.